



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives adopted the conference committee report on **H.3097**, and, the Senate having also adopted the report, enrolled the bill for ratification. The legislation establishes the **SOUTH CAROLINA VIRTUAL SCHOOL PROGRAM** to make use of computer technology in order to expand the educational opportunities that are available students. The program is designed to offer instruction through the Internet in order to: resolve scheduling conflicts; offer a more flexible, individualized pace of instruction; provide effective alternatives for meeting graduation requirements or credit recovery; and allow students to take courses that may not be offered at their schools due to insufficient demand or a lack of certified personnel. The State Board of Education is authorized to establish the South Carolina Virtual School Program to provide South Carolina students access to distance, online, or virtual learning courses offered for an initial unit of credit. Additionally, the South Carolina Virtual School Program shall offer access to credit recovery programs for students who have been identified by a school district as not having received credit for a course previously taken or for students who have been identified by a school district as not likely to receive credit for a course in which the student is currently enrolled. Students may enroll in courses for credit recovery based on policies established by the State Board of Education. A public, private, or homeschool student residing in South Carolina who is twenty-one years of age or younger shall be eligible to enroll in the South Carolina Virtual School Program. A private school or home school student enrolled in the program must not be entitled to any rights, privileges, courses, activities, or services available to a public school student other than receiving an appropriate unit of credit for a completed course. Students may be awarded a maximum of three online initial credits in a school year, and no more than twelve online initial credits throughout high school. However, the State Board of Education shall establish an appeals process whereby the governing body of the student's school district may grant a waiver to exceed the established limit.

H.3097 provides that the South Carolina Virtual School Program shall be housed in and managed by the State Department of Education. All distance, online, or virtual learning courses offered for a unit of credit must be aligned with the state adopted academic standards, include appropriate course materials, and be approved by the Department. Instructors must hold a valid teaching certificate in each content area being taught or receive approval from the State Department of Education to teach the course. All virtual schoolteachers must receive appropriate preservice and in-service training pertaining to the organization, classroom management, technical aspects, monitoring of student assessment, and other pertinent training from the Department. The State Board of Education shall develop guidelines and promulgate regulations on such matters as: (1) procedures and criteria for the selection of online courses; (2) qualifications and registration requirements of students who may enroll in online courses to include provisions outlining the enrollment of students that have been expelled from school; (3) procedures for private and homeschool students to enroll in courses; (4) teacher qualifications and the student-to-teacher ratio for online courses; (5) appropriateness and provisions for charging tuition and fees; (6) procedures for establishing uniform evaluation of student progress and awarding of final grades; (7) process for maintaining student records and reporting and recording grades on the student's transcript; (8) procedures and requirements for employment, supervision, and evaluation of teachers; (9) procedures and requirements for supervision, monitoring, assessment, and

evaluation of enrolled students; and (10) student expectations. The State Board of Education is required to provide the General Assembly with an annual report on the program.

Through the use of an online pilot program, the State Department of Education shall examine the feasibility of providing services of the South Carolina Virtual School Program to students enrolled in adult education programs and shall make recommendations to the General Assembly no later than January 1, 2008.

H.3097 establishes requirements for charter schools that choose to offer a program of online or computer instruction. The legislation provides that a charter school shall provide no more than seventy-five percent of a student's core academic instruction in kindergarten through twelfth grade via an online or computer instruction program. The twenty-five percent of the student's core academic instruction may be met through regular instructional opportunities in real time that are directly related to the school's curricular objectives, such as meetings with teachers and educational field trips and outings. Private or homeschool students choosing to take courses from a virtual charter school may not be provided instructional materials, or any other materials associated with receiving instruction through a program of online or computer instruction at the state's expense. Only students enrolled in the charter school as a full-time student shall be reported in the charter school's average daily membership to the State Department of Education for the purposes of receiving state or federal funds. Private and homeschool students may not be included in the student weighted pupil units or average daily membership reported to the State Department of Education for the purposes of receiving state or federal funds.

The House returned **S.243** to the Senate with amendments. This bill provides for the "**SOUTH CAROLINA HYDROGEN INFRASTRUCTURE DEVELOPMENT ACT**". The bill establishes within the State Treasurer's Office the South Carolina Hydrogen Infrastructure Development Fund. The revenues of the fund must be distributed in the form of grants to the South Carolina Research Authority and used for the purpose of promoting the development and deployment of hydrogen production, storage, distribution, and dispensing infrastructure and related products and services that enable the growth of hydrogen and fuel cell technologies in the State. The General Assembly must not appropriate more than a total of fifteen million dollars in grants. Grants may not be made after June 30, 2012. Revenues remaining in the fund after that date, regardless of source, lapse to the General Fund of the State. The Authority shall administer the fund and provide grants for any purpose that furthers the creation of a sustainable foundation upon which a hydrogen economy may develop across the State. The Authority is required to submit an annual report to the Governor and General Assembly concerning the Fund. The Fund is authorized to receive donations, grants and any other funding as provided by law. A taxpayer may receive a state income tax credit equal to twenty-five percent of a qualified contribution to the Fund. The General Assembly shall make appropriations from the general fund to the South Carolina Hydrogen Infrastructure Development Fund as follows: seven million dollars for fiscal year 2007-2008; five million dollars for fiscal year 2008-2009; and, three million dollars for fiscal year 2009-2010. These appropriations made to the Fund may be distributed as grants only to the extent that there is a dollar-for-dollar match, in cash or in kind, from a source other than the State. However, the executive committee of the authority, based on the merits of a grant proposal and its projected economic benefit, may reduce or eliminate the matching requirement on a case-by-case basis.

The legislation provides that two percent of the gross profits derived from the sale of hydrogen and fuel cell products or services developed by a grant recipient that is organized and operating as a for-profit business must be annually remitted to the Fund through June 30, 2012, until the full amount of the original grant has been repaid. Thereafter, if the full amount has not been repaid, these annual remissions go to the general fund until a level of full repayment is reached.

The legislation provides for a state sales tax exemption for equipment or machinery operated by or used to distribute hydrogen fuel cells and for equipment and machinery used predominately for hydrogen fuel cell research and development. A state sales tax exemption is also provided for any building materials used to construct a new or renovated building or any machinery or equipment located in a research district so long as the amount of the sales tax that would be assessed without the exemption is invested in hydrogen or fuel cell machinery or equipment located in the same research district within twenty-four months.

The legislation also requires state agencies to consider purchasing equipment and machinery operated by hydrogen fuel cells.

S.243 also provides for an **ECONOMIC IMPACT ZONE TAX CREDIT FOR A QUALIFYING MANUFACTURER** that employs at least 5000 full-time workers in South Carolina, has an in-state capital investment of at least \$850 million, and invests an additional \$350 million in this State prior to July 1, 2011.

S.243 also provides for a **SALES TAX EXEMPTION FOR AMUSEMENT PARK RIDES** and parts, machinery, and equipment used in their construction or operation for an amusement or theme park that makes a capital investment of at least \$250 million at a single site and creates at least 250 full time jobs and 500 part-time or seasonal jobs.

The House returned **S.518** to the Senate with amendments. Subsequently, the Senate did not concur in House amendments and a conference committee was appointed to address the differences of the bodies on the legislation. This bill requires the Department of Health and Environmental Control (DHEC) to approve and make available a video on the **DANGERS ASSOCIATED WITH SHAKING INFANTS AND YOUNG CHILDREN**. DHEC must make the video available at cost to every hospital, licensed childcare facility, and parent who adopts a child through the Department of Social Services. DHEC will be required to establish a protocol for health care providers to educate parents and primary caregivers about the dangers of shaking infants and young children. DHEC is instructed to request family practice and pediatric health care providers review these dangers with parents and primary caregivers of children up to age one at each well-child visit. Every hospital must make an approved video available and request both parents of every newborn baby to view it. Following the hospital's request, the parents are to sign a document stating they have been offered an opportunity to watch the video. In addition to making the video available, hospitals must make information available to parents about learning **INFANT CPR**. Also, the video presentation must be part of the initial and ongoing training of licensed childcare providers. The bill provides that there will be no civil, criminal or administrative cause of action or other liability against a health care facility or health care provider for any acts or omissions relating to compliance with the provisions of the act.

The House returned **S.348** to the Senate with amendments. This legislation enacts the "**ALL-TERRAIN VEHICLE SAFETY ACT**" or "**CHANDLER'S LAW**". The legislation provides that it is unlawful for a parent or legal guardian to knowingly permit his child or ward six years of age or younger to operate an all-terrain vehicle (ATV).

A person fifteen years old or younger may not operate an ATV within this State unless the person possesses a safety certificate indicating successful completion of an ATV safety course approved by the ATV Safety Institute. The legislation further provides that a person fifteen years of age or younger must wear a safety helmet and eye protection while operating an ATV.

The following restrictions apply to operation of an ATV on those lands open to the public:

- It is unlawful to operate an ATV except in compliance with the local regulations and restrictions.
- A person fifteen years of age or younger must be accompanied by an adult.
- It is unlawful to operate an ATV between one-half hour after sunset to one-half hour before sunrise unless it is equipped with operational headlights, and they are on.
- It is unlawful to cross an unbridged stream except at a designated ford or crossing. Riding in any water bodies or watercourses is unlawful.
- An ATV must have an effective muffler system in good working condition; a United States Department of Agriculture Forest Service approved spark arrester in good working condition, and a brake system in good operating condition.
- It is unlawful to operate an ATV while under the influence of alcohol or any controlled substance.
- It is unlawful to operate an ATV in a negligent or reckless manner.
- It is unlawful to operate an ATV in a manner that damages flora or fauna, roads, trails, firebreaks, signs, gates, guardrails, bridges, fencing, or other public property.

The legislation provides that ATVs are exempt from *ad valorem* personal property taxes beginning with calendar year 2007.

Violations of this legislation, unless otherwise specified, are misdemeanors punishable by a fine of not less than \$50 dollars nor more than \$200 dollars.

The legislation also provides for the titling of ATVs through the Department of Motor Vehicles.

The House amended, approved, and sent to the Senate **H.3572**, which enacts the "**TRAFFIC EDUCATION PROGRAM ACT.**" This bill provides that each circuit solicitor has the authority to establish as part of the Pretrial Intervention Program a traffic education program for persons who commit traffic-related offenses that are punishable only by a fine and loss of four points or less. The program must include both a community service and an educational component. A person may be considered for a

traffic education program only if he has no prior traffic-related offenses on his record, and a person may not participate in a traffic education program more than once. When a person successfully completes a traffic education program, the governmental agency administering the program shall effect a noncriminal disposition of the traffic-related offense, and there must be no record maintained of the traffic-related offense except by the appropriate traffic education program in order to ensure that a person does not benefit from a traffic education program more than once. If a person violates the conditions of a traffic education program or receives a subsequent traffic violation during the six months following the issuance of the ticket for which he has entered the traffic education program, he must be terminated from the program and the traffic-related offense must be reinstated.

Administration

Each circuit solicitor may establish an Office of Traffic Education Program Coordinator whose responsibility is to assist in the establishment and maintenance of the traffic education program. A traffic education program must be under the direct supervision and control of the circuit solicitor; however, the solicitor may contract for services with a county or municipality in the circuit. The South Carolina Commission on Prosecution Coordination shall oversee administrative procedures for the traffic education programs.

Fees

A person shall pay a nonrefundable \$140 fee to apply for a traffic education program that cannot be reduced or suspended. Additionally, a person shall pay a nonrefundable fee, not to exceed \$140 to participate in a traffic education program. Participation in a traffic education program may not be denied due to a person's inability to pay. If a person is deemed unable to pay, both the application fee and the participation fee must be waived.

For offenses that would have been otherwise tried in magistrates court, the governmental agency administering the program shall retain the participation fee to support the traffic education program. The application fees must be remitted to the county treasurer. The county treasurer shall remit 9.17 percent of the revenue from the application fees to the county to be used for providing required services for crime victims (Section 14-1-207(D)) and remit the balance of the revenue from the application fees to the State Treasurer's Office on a monthly basis, by the fifteenth day of each month, and make reports on a form and in a manner prescribed by the State Treasurer. Fees paid in installments must be remitted as received. The State Treasurer shall deposit the amounts received as follows:

- (1) 23.62 percent to the Department of Probation, Parole and Pardon Services;
- (2) 15.12 percent to the Department of Public Safety;
- (3) .44 percent to the Department of Public Safety's South Carolina Law

Enforcement Officers Hall of Fame;

- (4) 13.73 percent to the State Office of Victim Assistance;
- (5) 6.01 percent to the General Fund;
- (6) 10.97 percent to the Commission on Indigent Defense;
- (7) 1.34 percent to the Attorney General's Office;
- (8) .90 percent to the Department of Juvenile Justice Arbitration Program;
- (9) .81 percent to the Department of Juvenile Justice Marine Institutes;
- (10) .90 percent to the Department of Juvenile Justice Regional Status Offender

Program;

- (11) 3.95 percent to the Department of Juvenile Justice Coastal Evaluation Center;
- (12) 6.74 percent to the Circuit Solicitors;

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- (13) 2.68 percent to the State Law Enforcement Division;
- (14) 2.68 percent to the Department of Corrections;
- (15) .67 percent to the Judicial Department;
- (16) .28 percent to the Department of Natural Resources; and
- (17) .02 percent to the Forestry Commission.

For offenses that would have been otherwise tried in municipal court, the governmental agency administering the program shall retain the participation fees to support the traffic education program. The application fees must be remitted to the city treasurer. The city treasurer shall remit 9.17 percent of the revenue from the application fees to the municipality to be used for providing required services for crime victims (Section 14-1-208(D)) and remit the balance of the revenues from the application fees to the State Treasurer's Office on a monthly basis, by the fifteenth day of each month, and make reports on a form and in a manner prescribed by the State Treasurer. Fees paid in installments must be remitted as received. The State Treasurer must deposit the amounts received as follows:

- (1) 10.25 percent to the Department of Probation, Parole and Pardon Services;
- (2) 10.13 percent to the Department of Public Safety;
- (3) .26 percent to the Department of Public Safety's South Carolina Law Enforcement Officer's Hall of Fame;
- (4) 7.57 percent to the State Office of Victim Assistance;
- (5) 2.77 percent to the General Fund;
- (6) 11.02 percent to the Commission on Indigent Defense;
- (7) 1.07 percent to the Attorney General's Office;
- (8) .65 percent to the Department of Mental Health;
- (9) 7.64 percent to be used by SLED to equip all breath test sites with videotaping devices and supplies (Section 56-5-2953(E));
- (10) 9.93 percent to the Governor's Task Force on Litter;
- (11) 9.93 percent to the Department of Juvenile Justice;
- (12) .90 percent to the Department of Juvenile Justice Arbitration Program;
- (13) .81 percent to the Department of Juvenile Justice Marine Institutes;
- (14) .90 percent to the Department of Juvenile Justice Regional Status Offender Program;
- (15) 3.95 percent to the Department of Juvenile Justice Coastal Evaluation Center;
- (16) 6.74 percent to the Circuit Solicitors;
- (17) 2.68 percent to the State Law Enforcement Division;
- (18) 2.68 percent to the Department of Corrections;
- (19) .67 percent to the Judicial Department;
- (20) .28 percent to the Department of Natural Resources; and
- (21) .02 percent to the Forestry Commission.

Reporting Requirements

Each governmental agency that administers a traffic education program is required to submit a traffic education program annual report, by the first day of August, to the Commission on Prosecution Coordination providing the total number of participants by original traffic-related offenses, the total number of participants that successfully completed the traffic education program, the total amount of fees collected, and the total revenue remitted to the municipalities, counties, and State Treasurer's Office for the state's fiscal year.

Each governmental agency that administers a traffic education program is also required to submit to the Commission on Prosecution Coordination necessary identifying information on each participant for the creation and maintenance of a list for determining eligibility for a traffic education program.

The House amended, approved, and sent to the Senate **H.3547**, relating to the **CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT**. This bill clarifies the circumstances under which a perpetrator's name must be placed in the Central Registry of Child Abuse and Neglect maintained by the Department of Social Services. If the court finds that a perpetrator physically abused the child, sexually abused the child, severely neglected the child or repeatedly neglected the child, then this bill provides that perpetrator's name must be placed in the registry.

The House approved **S.312** and enrolled the bill for ratification. The bill revises the Joint Municipal Electric Power and Energy Act by establishing new **TERMS UNDER WHICH A JOINT AGENCY MAY ACQUIRE AND OWN GENERATING FACILITIES**. The legislation eliminates provisions that a joint agency be served by the electric supplier generally serving the area in which the members are located. The legislation adds to the criteria the Public Service Commission takes into consideration in determining whether it is beneficial for a joint agency to acquire generating resources exceeding a capacity of seventy-five megawatts or transmission resources with an operating voltage of one hundred twenty-five kilovolts or more. In determining whether to approve such projects, the Public Service Commission is directed to consider the effect of the proposed acquisition on the ability of the joint agency to satisfy existing financial and contractual obligations that it may have incurred in the acquisition of any previously acquired projects.

The House concurred in Senate amendments to **H.3406** and enrolled the bill for ratification. This bill provides an **EXEMPTION FROM THE PROVISIONS OF THE LEWIS BLACKMAN PATIENT SAFETY ACT** for specialty hospitals under contract with the Department of Alcohol and Other Drug Abuse Services.

The House approved and enrolled for ratification on **S.321**, relating to the use of the **STUDENT RECOVERY FUND** and other revisions to the South Carolina Nonpublic Post Secondary Institution License Act. The legislation provides the proceeds of a surety bond and monies in the Student Recovery Fund may be used for the benefit of students who suffer financial losses of tuition and fees prepaid to a nonpublic post secondary institution as a result of the closing of the institution. The funds may be used to pay refunds to these students for unearned tuition and fees, to pay for or subsidize the cost of providing facilities and instruction for these students to complete their programs, or to pay expenses to store and maintain student records of these students. The legislation also provides that requirements imposed on higher education recruitment do not apply to an institution's occasional, incidental, and informational appearances at high school recruitment fairs and similar activities.

The House amended Senate amendments on **H.3471**, a joint resolution to **APPROPRIATE CONTINGENCY RESERVE FUND REVENUES**, and returned the legislation to the Senate.

The House returned **S.139** to the Senate with amendments. This bill allows **CERTAIN WATERCRAFT AND RECREATIONAL TRAILERS TO BE TAXED AS REAL RATHER**

THAN PERSONAL PROPERTY. This bill allows a watercraft or recreational trailer that is pulled by a motor vehicle to be taxed as real property rather than personal property if it meets federal Internal Revenue Code criteria qualifying it as a primary or secondary residence. Under current law, this tax status is allowed for qualifying motor homes statewide and for qualifying boats in a county that authorizes the status by ordinance. The legislation provides that the fair market value of such a motor home, a boat or watercraft, or trailer used for camping and recreational travel that is pulled by a motor vehicle classified for property tax purposes as a primary or second residence must be determined in the manner that motor vehicles are valued for property tax purposes so as to allow for depreciation.

The House approved and sent to the Senate **H.3567**, a bill providing for a **CIGARETTE TAX INCREASE AND A REDUCTION IN THE SALES TAX ON GROCERIES.**

The House approved and sent to the Senate **H.3771**, a bill **REMOVING THE PROHIBITION ON A SHERIFF, DEPUTY SHERIFF, OR SHERIFF'S CLERK FROM PRACTICING LAW.**

The House approved and sent to the Senate **H.3457**, pertaining to the **SUSPENSION OF A BEER OR WINE SALES PERMIT.** This bill provides that in addition to the notice requirements contained in the Administrative Procedures Act, the department may not suspend a licensee's permit authorizing the sale of beer or wine until the division has conducted and completed an investigation, and the department has made an official determination that the licensee's permit should be revoked or suspended.

The House amended, approved, and sent to the Senate **H.3084**. This bill revises provisions that regulate **MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALERS** including procedures for revising franchise and dealership agreements.

The House approved and sent to the Senate **H.3812**. This bill revises provisions for the limit on property tax millage increases, so as to provide for a **MILLAGE RATE LIMITATION TO PURCHASE RESIDENTIAL DEVELOPMENT RIGHTS IN UNDEVELOPED PROPERTY NEAR MILITARY INSTALLATIONS** to prevent additional residential development near those military installations.

The House approved and enrolled for ratification **S.613**, relating to **CONIFER AND HARDWOOD SEEDLINGS.** This bill provides that a phytosanitary certificate or a permit may be issued by an inspector for intrastate and interstate shipments of conifer and hardwood seedlings to verify that they are apparently free of pests and diseases. To ensure pest and disease-free plant material, this bill provides that the preferred method of treatment is fumigation using methyl bromide in seedling plant beds prior to seeding.

The House approved and enrolled for ratification **S.448**, pertaining to **ELK HUNTING.** This bill provides that it is unlawful to take or attempt to take elk. A person convicted of violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned for not more than thirty days, or both.

The House approved and enrolled for ratification **S.597**. Relating to the requirements for **YOUTH HUNTING** days, this bill provides that a person who is less than eighteen years of age may be a youth hunter.

The House amended, approved, and sent to the Senate **H.3510**. For the privilege of hunting or taking **MIGRATORY WATERFOWL** in this State, this bill provides that a person must purchase a migratory waterfowl permit for ten dollars. Evidence of purchase must be endorsed on the hunting license. Fifty cents of the cost may be retained by the issuing sales agent, and the balance must be paid to the department. Stamps expire June thirtieth of each year. The legislation provides that South Carolina residents who have attained the age of sixty-four and hold a state-wide lifetime hunting and fishing license are not required to have a migratory game bird permit. The legislation revises provisions for the annual issuance of commemorative waterfowl stamps sold by the department as collector's items for ten dollars each with funds to be retained by the department. The legislation provides that of each migratory waterfowl permit and migratory waterfowl commemorative stamp sold for ten dollars, at least four dollars fifty cents must be used to improve, enhance, and expand the department's public migratory waterfowl hunting programs. The legislation provides that the Migratory Waterfowl Committee shall manage the selection of the annual commemorative migratory waterfowl stamp design. The department may provide for the production, promotion, and sale of the stamps and any prints or related items. Funds derived from the sale of prints and related items must be expended as follows: (1) first, for the administration of the migratory waterfowl stamp and print program; (2) the remainder of the funds must be used to benefit waterfowl for South Carolina. The board may fund an appropriate nonprofit organization for the development of waterfowl propagation projects. The projects shall specifically benefit waterfowl in the Atlantic Flyway and shall demonstrate that the expenditure is acceptable to the appropriate government agency having jurisdiction over the area; and (3) all balances must be carried forward from year to year so none of the funds revert to the general fund. Under the bill, it is unlawful to harm, disturb, molest, or take nests or eggs of actively nesting waterfowl. An exception is provided for inspection of nests for biological purposes.

The House amended, approved, and sent to the Senate **H.3977**. This bill increases the registration fee for **UNDERGROUND STORAGE TANKS** from \$100 dollars to \$135 dollars. This bill provides that the amount of registration and late fee revenue used for administration may not exceed the total amount collected from funds received by federal grant, interest accrued by the fund, and registration and late penalty fees. Current law provides that the amount used for administration may not exceed three million a year.

The House approved and sent to the Senate **H.3358**. This bill repeals outdated code sections that mandate the **OFFICE HOURS OF THE STATE TREASURER AND OTHER STATE AGENCIES**.

The House approved and sent to the Senate **H.3993**. This bill provides that the opening day of the annual major league baseball season each year is designated as '**TEXTILE LEAGUE BASEBALL DAY**' in South Carolina.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The full committee met on Tuesday, May 1, 2007; there were two bills on the agenda.

H.3496 received a favorable with amendment report from the full committee. This bill makes **COMPREHENSIVE REVISIONS PERTAINING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS**. However, as of May 7, 2007, the proposed amendment was unavailable.

H.3880 received a favorable recommendation. Relating to the **BROWNFIELDS/VOLUNTARY CLEANUP PROGRAM**, this bill revises the liability protection provided to parties who are not responsible for environmental contamination of property and who subsequently become responsible for the property. The bill further specifies the scope of a covenant not to sue provided to parties who are responsible for environmental contamination of property. The bill specifies that property on to which a release of petroleum products occurred is property eligible for participation in this voluntary cleanup program. The bill further specifies the contents of a voluntary cleanup contract and grounds for termination of the contract. The bill requires the Department of Health and Environmental Control to report to the General Assembly on the activities of this program.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, May 1, and reported out two bills.

The committee gave a report of favorable with amendments on **H.3084**. This bill revises provisions that regulate **MOTORCYCLE MANUFACTURERS, DISTRIBUTORS, DEALERS, AND WHOLESALEERS** including procedures for revising franchise and dealership agreements.

The committee gave a report of favorable with amendments on **H.3820**, the “**OMNIBUS COASTAL PROPERTY INSURANCE REFORM ACT OF 2007**”. The legislation addresses the recent scarcity of affordable property insurance for homes located along the South Carolina coast that has been prompted by losses insurance companies have experienced during severe hurricane seasons in Florida and the Gulf Coast.

Catastrophe Savings Accounts

The legislation provides for the creation of a Catastrophe Savings Account which is a regular savings account or money market account established to cover a deductible under an insurance policy for legal residence property that covers hurricane, rising floodwaters, or other catastrophic windstorm event damage or to cover self-insured losses sustained by legal residence property during such events. A taxpayer is allowed a state individual income tax deduction for a contribution to a Catastrophe Savings Account and all interest income earned by such an account is exempt from the state income tax. The total amount that may be contributed to a Catastrophe Savings Account may not exceed: (a) in the case of an individual whose qualified deductible is not more than one thousand dollars, two thousand dollars; (b) in the case of an individual whose qualified deductible is more than one thousand dollars, the amount equal to the lesser of fifteen thousand dollars or twice the amount of the taxpayer's qualified deductible; or (c) in the case of a 'self-insured' individual who chooses not to obtain insurance on his legal residence, two hundred fifty thousand dollars, but shall not exceed the value of the individual taxpayer's legal residence. Distributions from the account that are used for qualified catastrophe expenses are not subject to the state individual income tax.

Tax credit for insurance premiums

The legislation establishes a state individual income tax credit for insurance premium costs paid on the taxpayer's legal residence in excess of 5% of the taxpayer's adjusted gross income. The tax credit may not exceed \$1,250, and any unused credit may be carried forward for five succeeding taxable years.

Tax credits for retrofitting residences to make them more storm resistant

The legislation establishes a state income tax credit for costs incurred by an individual to retrofit his legal residence in order to make it more resistant to loss due to hurricane, rising water, or other catastrophic wind event. The credit for any taxable year may not exceed 25% of the cost incurred or \$1,000, whichever is less. The Director of the Department of Insurance defines, through regulation, which fortification measures qualify for this credit. The legislation provides for a state individual income tax credit for state sales or use taxes paid on purchases of property used to retrofit an individual's legal residence. The maximum credit allowed is \$1,500.

Insurance premium discounts

The legislation requires rating plans for essential property insurance in the coastal area to include premium discounts or credits for such retrofitting measures as the use of storm shutters and roof tie downs and for other specified factors relating to the reduction of storm damage risk.

Required disclosure of the availability of discounts and credits

The legislation requires insurance companies to disclose to insureds upon issuance or renewal of a policy the availability of premium discounts or credits allowed for retrofitting

and techniques for reducing windstorm losses. The notice must describe generally what measures the policyholders may take to reduce their windstorm premium.

Insurance policies and rates

The legislation extends from 30 to 60 days the required notification period for cancellation or non-renewal of insurance policies.

The legislation revises the approval process for insurance rate changes so as to clarify that the prohibition against a rate being excessive, inadequate or unfairly discriminatory applies even to rates falling within the plus-or-minus 7% flex-rating band. The legislation also clarifies that the Department of Insurance may consider the impact of a rate on individual territories and insureds when determining whether a rate is excessive, inadequate or unfairly discriminatory.

Filing fee for hurricane loss projection models

To recover the costs associated with the review and evaluation of catastrophe models, the legislation authorizes the Director of the Department of Insurance to impose a filing fee on: (a) all insurers who use catastrophe or other computer simulated models; and (b) modelers or modeling organizations that submit a model to the department for its review, evaluation, or approval. This fee must be retained by the department to defray the costs of retaining actuaries and other experts to evaluate such models.

Premium tax credit for insurers

The legislation provides that an insurer providing full property and casualty coverage, to specifically include wind and hail coverage, to property owners within the coastal area may claim as a nonrefundable credit against the premium tax an amount equal to 25% of the tax that otherwise is due on the premium written for the property owners for the taxable year. The tax credit applies to new policies with an effective date of January 1, 2008, or after.

Emergency powers of the Director of the Department of Insurance

The Director of the Department of Insurance is authorized to issue one or more general orders upon the declaration of a State of Emergency by the Governor.

An emergency order is effective for up to 120 days, but may be extended by the Director for additional 120-day periods if the Director determines that emergency conditions still exist. The General Assembly may terminate the Director's order by a concurrent resolution. The emergency order must be published in the State Register along with an explanation of how it facilitates recovery. By order, the Director may also adopt any rule that facilitates recovery from the emergency. The Department of Insurance may issue an order relating to standardized requirements applicable to insurers as a consequence of a hurricane or other natural disaster. Such an order must address: (1) claims reporting requirements; (2) grace periods for payment of premiums and performance of other duties by insureds; (3) temporary postponement of cancellations and nonrenewals; and (4) any other rule the Director considers necessary.

Revisions to the South Carolina Wind and Hail Underwriting Association

The legislation specifies that the South Carolina Wind and Hail Underwriting Association shall function as a residual market mechanism to provide wind and hail insurance for residential and commercial property to applicants who are unable to procure this insurance in the coastal area. The legislation further specifies that, as a residual market mechanism, the association is not intended to offer rates competitive with the admitted

market. Rates for policies issued by the association must be adequate and established at a level that permits the association to operate as a self-sustaining mechanism. The association and the Director are to monitor the rate adequacy of the association on a semi-annual basis. The Director is authorized to take corrective action on rates by order subject to review by the Administrative Law Court.

The legislation authorizes the Director to expand the area in which the Wind and Hail Underwriting Association provides essential property insurance for a period of up to 24 months and one renewal period of up to 24 months. In determining whether an expansion is warranted, the Director must consider the following criteria: changes in the number of insurers writing essential property insurance in the seacoast area and their capacity; changes in the extent to which surplus lines insurers are providing such coverage; changes in reinsurance activity impacting insurers writing essential property insurance; changes in demand for property insurance in the seacoast area; and any other information considered relevant. The Director must declare conditions that threaten to destabilize the property insurance market and the continued consistent availability of essential property insurance. The Director may not expand the association's territory beyond the seacoast area. The General Assembly may vacate any expansion order by passage of a joint resolution.

The legislation expands the powers of the association so as to allow it to: (1) receive, hold and transfer personal and real property; (2) contract for goods and services; (3) solicit and accept goods, loans, grants, etc.; (4) borrow funds; (5) issue bonds, surplus notes, or other debentures.

The legislation revises the definition of "insurable property" to include a structure built in compliance with the most recent building code adopted by the Building Codes Council or the building code in existence at the time of construction or the standards promulgated under the National Manufactured Housing Construction Standards and Safety Act.

The legislation provides for a specific expansion to the defined "coastal area" in Georgetown County.

South Carolina Hurricane Loss Mitigation Grant Program

The legislation creates the South Carolina Hurricane Loss Mitigation Grant Program within the Department of Insurance and provides for an advisory council to the Director to administer the program along with a program administrator. The program administrator shall apply for financial grants to be used to assist single-family, site-built or manufactured or modular homes, owner occupied, residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. In order to be eligible for a grant, the property must have been granted a homestead exemption, have an insured value of \$300,000 or less, and have undergone an acceptable wind certification and hurricane mitigation inspection. Grants must be matched by the property owner on a dollar-for-dollar basis up to a total of \$10,000 with the State's contribution not to exceed \$5,000. Low income property owners (i.e. those whose adjusted gross income does not exceed 80% of the median annual adjusted gross income for households within the county where the person or family resides) are eligible to receive a grant of up to \$5,000 with no required match so long as the home's value does not exceed \$150,000. The legislation specifies improvement projects for which grants may be approved including roof deck attachment, secondary water barrier

improvements, installation or repair of tie downs, and reinforcement of roof-to-wall connections.

Funding for the program is subject to annual legislative appropriations. Matching fund grants are also to be made available to local governments and nonprofit entities for projects that reduce hurricane damage to single-family, site-built or manufactured or modular homes, owner-occupied, residential property. The Department is also directed to make efforts to obtain federal government funding for the program. Additionally, this program must be implemented by the department through the use of the premium taxes due to this State by the South Carolina Wind and Hail Underwriting Association, and 1% of the premium taxes collected annually and remitted to the Department of Insurance.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.686 *UNLAWFUL TO SNAG A FISH* Sen. Sheheen

This bill provides that it is unlawful to take fish by snagging, pulling, or jerking a device equipped with one or more hooks through the water for the purpose of impaling fish within one thousand feet downstream of a hydroelectric dam. This does not prohibit the use of lures or baited hooks for the purpose of catching fish.

H.4023 *STRIPED BASS (ROCKFISH)* Rep. Umphlett

This bill makes various revisions with regards to catch limits and other provisions relating to striped bass (rockfish) which may be taken in Lake Marion, Lake Moultrie and the Diversion Canal.

EDUCATION AND PUBLIC WORKS

S.666 *BOARD OF TRUSTEES OF WINTHROP UNIVERSITY* Sen. Hayes

Among other things, this bill adds two more board members.

S.702 *TEACHER CONTRACTS* Senate Education Committee

This joint resolution makes various revisions for teacher contracts for middle grades.

H.4016 *SPECIAL VETERAN LICENSE PLATES* Rep. Knight

This bill provides for certain special license plates: Operation Desert Storm-Desert Shield Veteran Special License Plates; Operation Enduring Freedom Veteran Special License Plates; and Operation Iraqi Freedom Veteran Special License Plates.

JUDICIARY

S.94 *ELECTIVE SHARE PROVISIONS* Sen. Campsen

This bill provides that the rights of a surviving spouse to an elective share, homestead allowance, and exempt property, or any of them, may be waived, wholly or partially, before or after marriage, by a written contract, agreement, or waiver voluntarily signed by the waiving party after fair and reasonable disclosures to the waiving party of the other party's property and financial obligations have been given in writing.

H.4018 *WILD TURKEY FEATHERS* Rep. E.H. Pitts

This bill permit American Indian artists who are members of a tribe recognized by the South Carolina Commission for Minority Affairs to advertise and sell their arts and crafts containing wild turkey feathers under certain conditions.

H.4019 *POWERS AND DUTIES OF THE DEPARTMENT OF SOCIAL SERVICES WITH REGARD TO FEDERALLY APPROVED CHILD SUPPORT PLANS* Rep. Harrison

This bill changes a reference from "Aid To Families With Dependent Children" to "Temporary Assistance to Needy Families" and makes other technical corrections.

H.4021 *COCKFIGHTING* Rep. G.M. Smith

This bill increases the penalties for the offense.

H.4027 *SURCHARGE FOR CRIME VICTIM SERVICES* Rep. Bales

This bill increases the surcharge on all convictions in general sessions court and magistrates and municipal courts by five dollars.

LABOR, COMMERCE AND INDUSTRY

S.20 *HEALTH INSURANCE COVERAGE FOR TREATMENT OF PERVASIVE DEVELOPMENTAL DISORDERS* Sen. Elliott

This bill requires health insurers to provide coverage for treatment of pervasive developmental disorders, including autism and Asperger's Syndrome.

S.499 *"SOUTH CAROLINA COASTAL CAPTIVE INSURANCE ACT OF 2007"* Sen. Rankin

This bill enacts the "South Carolina Coastal Captive Insurance Act of 2007", to provide for the manner in which a South Carolina Coastal Captive Insurance Company may be

formed, licensed, and regulated. The legislation defines and limits the types of risk a South Carolina Coastal Captive Insurance Company may underwrite and establishes minimum capitalization requirements for such companies. The legislation permits the Director of the Department of Insurance to set additional discretionary capitalization requirements necessary to protect the public. The bill provides for certain required disclosures to consumers in all applications for insurance and policies, including an approved business plan. In an effort to stabilize the property insurance market, the bill allows the Insurance Department Director to expand the coastal area (with certain parameters to be considered by the Director) in which the association shall provide coverage (within specified timelines).

**S.504 PROCEDURE FOR MODIFYING BUILDING CODES AND PROVISION
FOR EMERGENCY MODIFICATION Sen. Leatherman**

This bill provides for the procedure for modifying an existing code is the same as adopting a code, and to provide the procedure for an emergency building code modification.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.4022 BARBERSHOPS Rep. R. Brown

This bill allows cosmetologists, estheticians, and manicurists to practice in barbershops.

WAYS AND MEANS

**S.484 EXPANSION OF THE DEFINITION OF INDEPENDENT INSTITUTION
OF**

**HIGHER LEARNING FOR PURPOSES OF PROVIDING TUITION
GRANTS Sen. Fair**

This bill modifies the definition of independent institution of higher learning for purposes of providing tuition grants so as to include in the definition an independent bachelor's level institution chartered before 1962 whose major campus and headquarters are located within South Carolina.

S.656 REDUCTION OF SALES TAX ON FOOD Sen. Leatherman

This bill reduces the sales tax on qualifying foodstuffs from three percent to one percent beginning November 2007. The legislation subsequently reduces the tax by annual half percent increments to zero based on qualifying Board of Economic Advisors forecast conditions.

H.4017 CERTIFICATION AS A MINORITY FIRM Rep. Huggins

This bill provides that the Small and Minority Business Assistance Office shall not impose a minimum amount of time for which a business must operate before becoming eligible for certification as a minority firm in this state.

H.4020 COASTAL CAROLINA UNIVERSITY Rep. Barfield

This bill revises provisions relating to meetings of the Board of Trustees of Coastal Carolina University, so as to eliminate the requirement that the board only meet in Conway. The legislation also provides that all property, real and personal, and rights of

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every description vested in the University shall be vested in “Coastal Carolina University.”

H.4029 HORRY COUNTY HIGHER EDUCATION COMMISSION Rep. Barfield

This bill revises provisions for the Horry County Higher Education Commission, so as to revise the manner in which members of the commission are appointed, to further provide for where the commission will meet.

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